

# 84-238-SPHA 84-238-SPHA

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

SEE ATTACHED

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name) \_\_\_\_\_

Signature \_\_\_\_\_

Address \_\_\_\_\_

City and State \_\_\_\_\_

Attorney for Petitioner:

Brian A. Goldman, Esquire  
(Type or Print Name) \_\_\_\_\_

Signature \_\_\_\_\_

Address \_\_\_\_\_

City and State \_\_\_\_\_

Legal Owner(s): SKLH GENERAL PARTNERSHIP

Howard M. Saperstein, Managing-Partner  
(Type or Print Name) \_\_\_\_\_

Signature \_\_\_\_\_

Address \_\_\_\_\_

City and State \_\_\_\_\_

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

19 Walker Avenue, Suite 300  
Pikesville, MD 21208  
City and State \_\_\_\_\_

Howard M. Saperstein  
Name \_\_\_\_\_

19 Walker Avenue, Suite 300  
Pikesville, MD 21208  
City and State \_\_\_\_\_

Attorney's Telephone No.: (301) 752-5006

ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day of \_\_\_\_\_, 1984, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ day of \_\_\_\_\_, 1984, at \_\_\_\_\_ o'clock \_\_\_\_\_ P.M.

Call John  
Zoning Commissioner of Baltimore County.

E.C.O.-No. 1 (over)

An amendment to the site plans in cases number 68-118 SPH and 71-238 SPH to allow for the construction of an office building in lieu of the existing retail store and configuration

and

To determine whether the site is subject to the residential transitional requirements for parking in a residential zone

and

To determine whether the Zoning Commissioner has the power and authority to consider a previously granted special hearing for parking in a residential zone, and required if there is a change in the commercial use as shown on the site plan, but not in the metes and bounds description or parking configuration which was the subject of the special hearing for parking in a residential zone.

and to allow access drive through a residential zone

# 84-238-SPHA 84-238-SPHA

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 232.1 to permit a front yard setback of 8' in lieu of the required 10' and variance from Section 1B02.2B (VB.2) to permit a front or rear yard setback of 8' in lieu of the required 70' or 50' setback respectively for an underground parking area.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) If walls are for parking area only, variance would not be required since walls are not structural, and such other reasons as will be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name) \_\_\_\_\_

Signature \_\_\_\_\_

Address \_\_\_\_\_

City and State \_\_\_\_\_

Legal Owner(s): SKLH General Partnership

c/o Howard Saperstein  
(Type or Print Name) \_\_\_\_\_

Signature \_\_\_\_\_

Address \_\_\_\_\_

City and State \_\_\_\_\_

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

19 Walker Avenue, Suite 300  
Pikesville, MD 21208  
City and State \_\_\_\_\_

Howard M. Saperstein  
Name \_\_\_\_\_

19 Walker Avenue, Suite 300  
Pikesville, MD 21208  
City and State \_\_\_\_\_

Attorney's Telephone No.: (301) 752-5006

ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day of \_\_\_\_\_, 1984, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ day of \_\_\_\_\_, 1984, at \_\_\_\_\_ o'clock \_\_\_\_\_ P.M.

Call John  
Zoning Commissioner of Baltimore County.

(over)

# BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



# PETITION AND SITE PLAN EVALUATION COMMENTS

# BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 6, 1984

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

060  
Nicholas B. Commodari  
Chairman

MEMBERS

Bureau of Engineering

Department of Traffic Engineering

State Roads Commission

Bureau of Fire Prevention

Health Department

Project Planning

Building Department

Board of Education

Zoning Administration

Industrial Development

Brian A. Goldman, Esquire  
1910 Charles Center South  
36 S. Charles Street  
Baltimore, Maryland 21201

RE: Item No. 175 - Case No. 84-238-SPHA  
Petitioner - SKLH General Partnership  
Special Hearing & Variance Petitions

Dear Mr. Goldman:

The Zoning Plans Advisory Committee and the County Review Group (CRG) have both reviewed the plans submitted with the above referenced petition. The following comments from the CRG have been substituted for those of the Zoning Plans Advisory Committee. They are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the recommendations as to the suitability of the requested zoning.

In view of your client's proposal to raze the existing frame buildings and construct a four story office building, this combination hearing is required.

As you are aware, the proposed parking on the opposite side of Woodholme Avenue and part of the property on the same site of the proposed office building were the subjects of two previous hearings. Case No. 68-118-SPH and Case No. 71-238-SPH. In addition to the variance for setbacks of the proposed underground parking, a special hearing is requested to determine status of the previous cases in relation to the proposed development and the current residential transition requirements and to allow access through a residential zone.

At the time of the scheduled hearing, the site plan, showing proposed underground parking should be submitted. In addition, it has been determined that the portion of the proposed building that projects outside of the height tent in the diagram entitled, "height tent looking SW" on the bottom of the site plan, is acceptable because the height at this point is not greater than 40 feet.

Item No. 175 - Case No. 84-238-SPHA  
Petitioner - SKLH General Partnership  
Special Hearing & Variance Petitions  
Page 2

This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. Commodari, Jr.  
NICHOLAS B. COMMODARI  
Chairman  
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: D. S. Thaler & Associates, Inc.  
11 Warren Road  
Baltimore, Maryland 21208

Brian A. Goldman, Esquire  
1910 Charles Center South  
36 S. Charles Street  
Baltimore, Md. 21201

D. S. Thaler & Associates, Inc.  
11 Warren Road  
Baltimore, Md. 21208

# BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

ARNOLD PARSON  
Zoning Commissioner

Petitioner: SKLH General Partnership  
Petitioner's Attorney: Brian A. Goldman, Esquire  
Chairman, Zoning Plans Advisory Committee

# COUNTY REVIEW GROUP MEETING Wednesday, November 2, 1983

# WOODHOLME PROPERTY

# COUNTY REVIEW GROUP - THOSE PRESENT\*

Gilbert S. Benson, Chairman - Dept. of Public Works  
E. A. Bober - Office of Current Planning  
Diana Itter - Office of Zoning  
Gregory M. Jones - Traffic Engineering  
Paul Koch - Developers Engineering Division  
George Wittenman - State Highway Administration  
Robert Powell - Health Department  
Allen Hitchcock - Architect  
Brian A. Goodman, Esq. - Attorney for Developer  
D. S. Thaler - D. S. Thaler & Assoc.  
H. F. Sadler - D. S. Thaler & Assoc.  
Len Bohager - D. S. Thaler & Assoc.

\*Attachment - List of Interested Citizens

The meeting was called to order by Mr. Benson, Chairman of the County Review Group, at 10:00 a.m. Mr. Benson introduced the members of the Committee and stated the purpose of the meeting.

Mr. David Thaler, developer's engineer, presented the plan. They are proposing a 5-story office building consisting of 32,000 square feet located on a .75 acre tract of land. The building is to be a pre-cast concrete building and a model is presented. A special hearing was held in 1968 and 1971 granting parking within the residentially zoned portion of this tract. All access to this site is from Woodholme Avenue.

Mr. Eugene Bober, co-chairman of the CRG, summarized all of the written comments submitted from Health Dept., State Highway Administration, Office of Zoning, Office of Planning, Fire Prevention Bureau, Traffic Engineering, Developers Engineering Division. Mr. Bober's summary is as follows:

Health Dept. advises that this tract is located within Gwynns Falls, a deficient area, and an interim sewer disposal system is proposed within this site. As soon as the moratorium is lifted for public sewer, this building must be connected to the public facilities. Percolation test was conducted and approved by Baltimore County. Environmental Effects Report has been reviewed and approved subject to conditions set forth by the Health Dept.

State Highway Administration states that the entrance to Woodholme Ave. shall be increased to 30'. All construction within this right-of-way must be approved and constructed with a permit from SHA.

The plan does not show existing or proposed fire hydrants which are required at 300' intervals in accordance with the Baltimore County Design Manual. Building must be



# TALKIN AND ABRAMSON

ATTORNEYS AT LAW  
SUITE 105  
5560 STERRETT PLACE  
COLUMBIA, MARYLAND 21044

RICHARD B. TALKIN  
JOEL MARC ABRAMSON  
STEVEN J. FOW  
ELLEN LEVY WIDEN  
JAMES L. MATYER  
DONALD NEEDLE

\*MEMBER DISTRICT OF COLUMBIA BAR

November 14, 1983

Mr. Arnold Jablon  
Zoning Commissioner of Baltimore  
County  
Office of Planning and Zoning  
for Baltimore County  
New County Courts Building  
406 Bosley Avenue  
Towson, Maryland 21204

Reference: Special Hearing  
Case Nos. 71-238SPH and  
68-118SPH

Dear Mr. Jablon:

I am writing regarding the above-cited special exception permits. I am the attorney for Alfred and Linda Himmelrich, Jr., 408 South Road, Pikesville, Maryland 21208; Richard and Lois Talkin, 404 South Road, Pikesville, Maryland 21208 and Murray Kirshman, 28 Woodholme Avenue, Pikesville, Maryland 21208. All of the above individuals are residents of the area and are immediately affected by the development of the subject parcel.

On November 2, 1983 a County Review Group Meeting was held to consider the proposed site plan submitted by the developer. I appeared at that meeting on behalf of my clients and raised strong objection to the substance of the site plan itself and a lack of compliance with the conditions of the originally issued special exception permits. Of course, with the passage of time, the unused special exception has obviously lapsed.

As you know, the subject parcels were considered for off-street parking in a residential zone in 1968 and 1971. Following a hearing the special exception was issued by

Mr. Arnold Jablon  
November 14, 1983  
Page Two

the Zoning Commissioner. The special exception was issued based upon the then proposed development of the parcel and the effect on the then existing neighborhood. In fact, the decision specifically provided that "... by reason of the following findings of facts, the public health, safety and general welfare of the locality involved not being adversely affected the above Special Hearing for off-street parking in a residential zone in accordance with the plat dated December 16, 1970, and revised April 2, 1971 and approved April 7, 1971 by George E. Gavrelis, Director of the Office of Planning and Zoning for Baltimore County, said plat having been filed as "Exhibit A" in this proceeding, and which is incorporated by reference hereto as a part of this order, should be granted."

Accordingly, the terms and conditions of the original special exception require that the circumstances remain the same. However, over the twelve (12) years since the special exception was approved those circumstances have materially been altered as follows:

(1) Woodholme Avenue was relocated in 1983 so as to provide access off the neighborhood road, bifurcate the property, and add a dangerous curve immediately before the proposed entrance to the parking lot;

(2) The parcels across Woodholme Avenue are now to be developed with much more intensive use than originally proposed thereby increasing the traffic and creating a greater demand for parking.

These changed circumstances effectively serve to invalidate the special exceptions issued in 1968 and 1971. And, in order to protect the integrity of the neighborhood it is necessary that a new special exception hearing be held. To conclude otherwise would seriously impair the rights of the citizens of the neighborhood and would constitute a misapplication of the special exception procedures. The site plan approval sought in this case materially differs from the site plan presented in the special exception cases.

For the above reasons, we hereby request that you order a new special exception hearing for the off-street parking. Further, I would request that you advise the participants in this matter of your decision as soon as possible but certainly

Mr. Arnold Jablon  
November 14, 1983  
Page Three

before twenty-five days elapses from the Community Review Group Meeting of November 2, 1983. That is, unless a new hearing is required we shall file an appeal to the Board of Appeals from the contingent decision of the CRG.

Your consideration of this matter is sincerely appreciated.

If I can answer any questions regarding this matter please do not hesitate to contact me.

Sincerely,

*Alan M. Schwartz*  
Alan M. Schwartz

cc: Mr. & Mrs. Himmelrich  
Mr. & Mrs. Talkin  
Mr. M. Kirshman



BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3333

ARNOLD JABLON  
ZONING COMMISSIONER

November 17, 1983

Alan M. Schwartz, Esquire  
Suite 105, 5560 Sterrett Place  
Columbia, Maryland 21044

RE: Case Nos. 71-238-SPH and 68-118-SPH  
SW/S of Reisterstown Road, 315.5' N  
of Woodholme Avenue - 3rd Election  
District

Dear Mr. Schwartz:

Enclosed is a copy of a letter I received from Brian A. Goldman, Esquire, for your perusal.

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

AJ/srl

Enclosure

# GOLDMAN & FEDDER, P.A.

SUITE 200 CHARLES CENTER SOUTH  
36 SOUTH CHARLES STREET  
BALTIMORE, MARYLAND 21201-3130  
(202) 752-9006

BRIAN A. GOLDMAN  
STEVEN E. FEDDER  
JUDITH E. WORTON

November 8, 1983

Arnold E. Jablon, Esquire  
Zoning Commissioner of Baltimore County  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: SKLH General Partnership  
1802 and 1804 Reisterstown Road  
Pikesville, Maryland  
Special Hearing Case Numbers: 68-118-SPH  
71-238-SPH

Dear Mr. Jablon:

This letter is being written in response to comments submitted on behalf of your office by Diana Iltter, Zoning Associate III, at the Community Review Group meeting of November 2, 1983. Specifically, Paragraph 1 states:

It is the opinion of the Zoning Commissioner that a Special Hearing will be required in order to determine whether an amendment to the site plans submitted with 68-118-SPH and 71-238-SPH is required. At the time of the hearing the petitioner must establish why the proposed parking layout is not subject to residential transitional requirements. I.e., why a 75' wide buffer area between the existing house on the David Kaplan property is not required. It is possible to file for a variance to the number of parking spaces required, at the same time so that if the Special Hearing was denied, the variance herein could be heard. Approval is acceptable subject to the outcome of the zoning hearing.

As you are aware, this office represents SKLH General Partnership, the developer of the above referenced properties, and it is our position that the position taken above is incorrect. The Special Hearings permitted the use and configuration of parking on the subject properties. Since the passage of the Order granting the Special Hearings, the properties have been continuously used in the configuration presently contemplated for parking. Upon development of the properties, my client has no intention of modifying, in any way, the parking proposed for the properties.

68-118-SPH was granted on January 24, 1968, with no conditions attached to the allowance of off-street parking in a residential area. The metes and bounds description which was the subject of the Special Hearing was specific in describing only that portion of the property which was zoned DR. 71-238-SPH was granted on April 14, 1971. Again, the metes and bounds description which was the subject of the Special Hearing described only the DR zoned portion of the parcel.

Arnold E. Jablon, Esquire  
November 8, 1983  
Page Two

The parking lots in question constitute a permitted use existing as a result of the Special Hearings in 1968 and 1971. The configuration of the parking on both parcels is precisely the same as that described in the plans approved in 1968 and 1971. Change of ownership does not destroy a permitted use, *Kastendike vs. Baltimore Association for Retarded Children*, 287 Md at 389 (1974). *CF. Skiplack Cove v. Board of Zoning Commissioners*, 284 Md 389, 287 Md 49 (1972). The nature and character of the use, e.g. parking in a residential zone, will be unchanged by the developer. It could be argued that the proposed development of the office building will cause increased usage of the existing parking spaces. This, however, is no basis for requiring a Special Hearing as the original Special Hearings granted in 1968 and 1971 were unconditional. It was within the power of the Commissioner at that time, to condition the special use upon the utilization of the existing structures, but this was not done.

The special use granted runs with the land, and the subsequent purchaser is entitled to all the rights and benefits of the Special Hearings. *Yokley, Zoning Law & Practice* (4th Ed) §14-9. The failure to condition the granting of the special use upon the continued occupancy of the existing frame structures entitles the holder of the land to use it to the fullest extent of the granted exception. *County of Imperial v. Donald C. McDougall*, 138 Cal Rptr. 472, 58 P.2d 14 (1979). In *McDougall*, the California Supreme Court struck down a lower court decision which would have placed restrictions upon the use of land subject to an earlier zoning decision granting an unconditional special exception. The original exception was granted to permit the operation of a commercial well in a residential zone. When the property was purchased and the operation expanded, the zoning board took the position that the operation continued to be within the exception. The Supreme Court of California upheld the zoning board and reversed the lower court, holding that the exception could have been granted conditioned upon a specific volume or traffic limitations. The court held that the failure to place conditions upon the use precluded the zoning board from placing such limitations upon the successor to the original owner.

The metes and bounds description for which notice of the Special Hearings were given describes only the portion of property in the residential zone. If the Special Hearings had been dependent upon the then existing structures on the BL zoned portion of the properties, the Commissioner would obviously have required the inclusion of the full metes and bounds description in the public notices required by law. Moreover, the plans approved by the Board of Planning & Zoning, at least with respect to 1802 Reisterstown Road, clearly indicate that the two story frame building thereon was to be removed. Thus, the contention that the Special Hearing was tied to the existing structures is unfounded.

Arnold E. Jablon, Esquire  
November 8, 1983  
Page Three

In conclusion, the requirement of a Special Hearing to permit the use of the property to continue in accordance with the orders set forth in 68-118-SPH and 71-238-SPH should be abandoned. The developer had a right to rely upon the metes and bounds descriptions, plats and upon the prior actions of Zoning Commissioner. To hold a Special Hearing to reconsider issues already decided can only lead to unnecessary expense and litigation.

I currently have a meeting scheduled with you on November 17, 1983 at which time we can discuss this matter further. If you would like me to provide you with any further information, prior to our meeting, please advise the undersigned.

Thank you for your consideration.

Sincerely yours,

*Brian A. Goldman*  
Brian A. Goldman

BAG/bq

cc: Alan N. Kanter, Esquire  
Howard M. Saperstein, CPA  
David H. Thaler, P.E.

# SCHERR, COLE & MURPHY

ATTORNEYS AT LAW

GLEN BURNIE OFFICE  
91 AQUARIUM ROAD  
GLEN BURNIE, MARYLAND 21061  
768-1470

H. ROBERT SCHERR  
RONALD C. COLE  
KEVIN P. MURPHY  
\*ALL LICENSED IN D.C.

PIKESVILLE OFFICE  
5 IRVING PLACE  
BALTIMORE, MARYLAND 21208  
633-1000

November 1, 1983

County Office Building  
Room 319  
Towson, Maryland 21204

Dear Sir:

Please accept our letter as a protest to the developer's request to permit the construction of a parking lot on the residential side of the newly-opened leg of Woodholme Avenue.

My law partner, Ronald Cole (1 Woodholme Village Court) and I (8 Woodholme Village Court) are both residents of the Woodholme community. As residents, our families must use Woodholme Avenue to enter and exit the community.

I am sure you are aware of the hazardous traffic conditions that exist at the Reisterstown Road - Beltway - Woodholme Avenue area. To help alleviate this serious condition, the County finally installed a traffic light at Reisterstown Road and Hooks Lane, and it re-routed Woodholme Avenue.

If the County now permits the construction of a parking lot at this location, the effect will be to re-create a new hazardous condition, and the help we've just received from the County will be negated.

Thank you very much for your consideration.

Very truly yours,

*H. Robert Scherr*  
H. ROBERT SCHERR

HRS/naw







WALTER I. SEIF, JR.

ATTORNEY AT LAW  
MARYLAND NATIONAL BANK BLDG.  
1414 REISTERSTOWN ROAD  
Pikesville, MD. 21208

361-484-8388

March 15, 1984

Honorable Arnold Jablon  
Zoning Commissioner  
Baltimore County  
County Office Bldg.  
Towson, Maryland 21204

RE: REISTERSTOWN ROAD & WOODHOLME AVENUE

Dear Mr. Jablon:

Please note my opposition to any variance or change being granted to property located at Reisterstown Road and Woodholme Avenue.

I live at 405 South Road, and my only egress and ingress is through Woodholme Avenue to Reisterstown Road.

Very truly yours,

WALTER I. SEIF, JR.

WIS:igb

PROTESTANT'S  
EXHIBIT 2

DR. FRANK A. BORD

MRS.

6 WOODHOLME AVE  
MURRAY RIRSCHMAN - 28 Woodholme Ave  
Renaissance Tavern 404 South Rd  
Sharon Cole 1 Woodholme Village Ct. Balt 21208  
Sandy Marenberg 17 Woodholme Village Ct. Balt 21208  
Boston Needle 19 Woodholme Village Ct. Balt 21208  
Robert BEGLEITER 21 Woodholme Village Ct. Balt 21208  
Frank & Geoffrey Kroll 25 Woodholme Vill. Ct. Balt. 21208

PROTESTANT'S  
EXHIBIT 4

BARRY A. WEINHOUSE, D.P.M.

ARNOLD R. FORMAN, D.P.M., A.A.C.P.S.

WEINHOUSE AND FORMAN, P.A.

PRACTICE LIMITED TO PODIATRY

REPLY TO:

THE ROTUNDA  
711 WEST 40th ST., SUITE 410 / BALTIMORE, MD. 21211  
NORTHERN PARKWAY EAST PROFESSIONAL CENTER  
1900 E. NORTHERN PARKWAY / BALTIMORE, MD. 21219  
MERRITT MANOR SHOPPING CENTER  
1125 MERRITT BOULEVARD / BALTIMORE, MD. 21222

BY APPOINTMENT TELEPHONE (301) 880-4485  
BY APPOINTMENT TELEPHONE (301) 523-0231  
BY APPOINTMENT TELEPHONE (301) 282-6666

March 14, 1984

Zoning Commissioner of Baltimore County  
Baltimore County Office Building  
Suite 101  
Towson, Maryland 21204

Gray SKLH General Partnership  
Special Hearing and Variance  
Petitions  
Case #84-238 SPHA

Dear Mr. Jablon,

I am writing this letter in support of granting the above captioned Special Hearing and Variance Petitions.

I live 3 houses from the subject site and believe it would be unfair to deprive SKLH General Partnership of the proposed use of its site. I believe the office building will be an improvement to the site and will not create a traffic hazard.

Sincerely,

Barry A. Weinhouse, D.P.M.

BAW/mm  
Copy Mr. Barry Gold

PETITIONER'S  
EXHIBIT 5

15 Woodholme Avenue  
Baltimore MD 21208  
14 March 1984

Zoning Administrator  
Baltimore County  
Towson.

Dear Sir:

Special Hearings on variance petitions - SKLH  
General Partnership - Case 84/238/SPHA

I am the owner of 15 Woodholme Ave, parcel 111 on the map 68. My house is the first on the left going down Woodholme (towards the Country Club) after rounding the bend of Hooks Lane extended. From my front porch I can see the facade of the new Larkins building.

Regarding the above-captioned case, I wish to state that I do not oppose either the continuation of the special hearing use to permit parking in the residential zone opposite the proposed office building or the variance request to permit access to a commercial building by going through a residential zone.

Sincerely,

Wm P. Avin.

PETITIONER'S  
EXHIBIT 6

KRAFT AND KAUFFMAN, P.A.

ATTORNEYS AND COUNSELORS AT LAW  
406 W. PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204

BERNARD KRAFT  
BRUCE ELLIOTT KAUFFMAN  
JEFFREY L. FORMAN  
ROBERT E. JACOBSON

COUNSEL  
MELINDA L. RHINEHART  
(ADMITTED TEXAS BAR ONLY)

November 2, 1983

TO WHOM IT MAY CONCERN:

Please be advised that BRUCE and LOIS KAUFFMAN are residents of 16 Woodholme Avenue and oppose a special exception for a parking lot on Woodholme Avenue.

BRUCE E. KAUFFMAN

20 Woodholme Village Court  
Pikesville, Maryland 21208  
November 1, 1983

Baltimore County Planning Board  
County Office Building  
Towson, Maryland

Subject: Special Hearing on November 2, 1983 regarding development on Woodholme Avenue and Reisterstown Road

Dear Board:

I wish to let the Board know that I am against the rezoning of the lot in question.

Currently the lot is zoned LR-1.

Woodholme Avenue is a residential street, curvy and hilly. Rezoning this lot changes Woodholme Avenue, creates extra traffic on a street that cannot handle it, decreases home values, and causes a burden the neighborhood must bear not the developers.

The burden of course is the commercial traffic where children used to bike ride and joggers run, where homes that had some land and woods around them are now facing parking lots and windowless edifices and neon signs, where there is only one way in and the same way out.

Woodholme Avenue is not Reisterstown Road and should not be developed as such.

Thank you.

Very truly yours,

Ralph L. Holzman

SCHERR, COLE & MURPHY

ATTORNEYS AT LAW

GLEN BURNIE OFFICE  
91 AGLAHART ROAD  
GLEN BURNIE, MARYLAND 21061  
768-1470

PINESVILLE OFFICE  
5 IRVING PLACE  
BALTIMORE, MARYLAND 21208  
633-1000

November 1, 1983

County Office Building  
Room 319  
Towson, Maryland 21204

Dear Sir:

Please accept our letter as a protest to the developer's request to permit the construction of a parking lot on the residential side of the newly-opened leg of Woodholme Avenue.

My law partner, Ronald Cole (1 Woodholme Village Court) and I (8 Woodholme Village Court) are both residents of the Woodholme community. As residents, our families must use Woodholme Avenue to enter and exit the community.

I am sure you are aware of the hazardous traffic conditions that exist at the Reisterstown Road - Beltway - Woodholme Avenue area. To help alleviate this serious condition, the County finally installed a traffic light at Reisterstown Road and Hooks Lane, and it re-routed Woodholme Avenue.

If the County now permits the construction of a parking lot at this location, the effect will be to re-create a new hazardous condition, and the help we've just received from the County will be negated.

Thank you very much for your consideration.

Very truly yours,

H. ROBERT SCHERR

HRS/CLM

PETITION

We, the undersigned residents of the Woodholme community are strongly opposed to a parking lot being built on residential property in the vicinity of Reisterstown and Woodholme Avenue.

We, the undersigned urge you to deny the Petitioner's request for use of any residential property for any commercial purpose.

N. Robert Scherr	P. Woodholme Village Court
Patricia A. Scherr	8 Woodholme Village Court
Sharon Cole	6 Woodholme Village Court
James Marenberg	21 Woodholme Village Court
Robert E. Jacobson	1 Woodholme Village Court
Donald C. Cole	1 Woodholme Village Court
Alan J. Scherr	3 Woodholme Village Court
John J. Scherr	3 Woodholme Village Court
Sharon E. Scherr	10 Woodholme Village Court
Edward J. Scherr	10 Woodholme Village Court
Sharon J. Scherr	28 Woodholme Village Court
William J. Scherr	28 Woodholme Village Court
Mike Scherr	11 Woodholme Village Court
Sandy Marenberg	18 Woodholme Village Court
Sharon E. Scherr	17 Woodholme Village Court
Robert E. Jacobson	17 Woodholme Village Court
Jeffrey L. Forman	21 Woodholme Village Court
John J. Scherr	21 Woodholme Village Court
Sharon J. Scherr	23 Woodholme Village Court
Sharon E. Scherr	23 Woodholme Village Court
Sharon J. Scherr	23 Woodholme Village Court
Sharon E. Scherr	23 Woodholme Village Court



**PETITION**

We, the undersigned residents of the Woodholme community are strongly opposed to a parking lot being built on residential property in the vicinity of Reisterstown and Woodholme Avenue.

We, the undersigned urge you to deny the Petitioner's request for use of any residential property for any commercial purpose.

*1697 1/2*  
*24 Woodholme Valley Ct*  
*24 Woodholme Valley Ct*

NOV 1, 1983

TO WHOM IT MAY CONCERN:

RE: EXCEPTION TO RESIDENTIAL D.R.1 PROPERTY AT WOODHOLME AVE, NEAR REISTERSTOWN RD - NEAR LUSKIN'S STORE

I URGE YOU TO PLEASE DENY THE ~~PETITIONER'S~~ PETITIONER'S REQUEST FOR A PARKING LOT WHICH IS NOW RESIDENTIALLY ZONED. YOUR PETITIONER IS TRYING TO GET "IN THE BACK DOOR" THAT WHICH HE CAN'T GET IN THE FRONT. HE WANTS TO USE RESIDENTIAL PROPERTY FOR A COMMERCIAL PURPOSE, NAMELY A PARKING LOT.

A PARKING LOT CERTAINLY IN COMMERCIAL. COMMERCIAL ZONING IS LIMITED TO PROPERTY ALONG REISTERSTOWN RD. FOR JUST THAT REASON, TO LIMIT COMMERCIAL DEVELOPMENT TO REISTERSTOWN RD. ONLY.

WOODHOLME COMMUNITY IS A WELL ESTABLISHED COMMUNITY. THE ESTATES ALONG WOODHOLME AVE ON SEVERAL ACRES OF LAND ARE ESPECIALLY BEAUTIFUL THIS FALL TIME OF THE YEAR. ALSO THERE ARE

MANY NEW HOMES  $\approx$  30 HOMES THAT WOULD ~~BE~~ ALSO DECREASE IN VALUE IF EVEN A SINGLE INCH OF RESIDENTIAL PROPERTY BECOMES COMMERCIAL. THERE ARE ALSO  $\approx$  30 CHILDREN WHO LIVE IN THIS AREA; INCLUDING 5-7 babies. A FURTHER COMMERCIAL PROPERTY IN THIS AREA WOULD BE A GREAT DANGER TO YOUNG CHILDREN IN THIS AREA WHO ARE PUSHED IN STROLLERS OR WHO ARE

OLD ENOUGH TO RIDE THEIR BICYCLES. A PARKING LOT IS PARTICULARLY HAZARDOUS TO A YOUNG & BROWING NEIGHBORHOOD. THE UGLY AND MONSTEROUS LUSKIN'S SIGN IS PUNISHMENT ENOUGH FOR ONE COMMUNITY!

*Sincerely,*  
*Sharon Cole*  
*Ronald C. Cole*  
*1 Woodholme Valley Ct*  
*24 Woodholme Valley Ct*

BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3333

ARNOLD JABLON  
ZONING COMMISSIONER

November 28, 1983

Brian A. Goldman, Esquire  
Suite 1910, Charles Center South  
36 South Charles Street  
Baltimore, Maryland 21201-3130

Alan M. Schwartz, Esquire  
Suite 105, 5560 Sterrett Place  
Columbia, Maryland 21044

RE: Case Nos. 71-238-SPH and 68-118-SPH  
SW/S of Reisterstown Road, 315.5' N  
of Woodholme Avenue - 3rd Election  
District

Gentlemen:

Please be advised it is my position that a Petition for Special Hearing must be filed in order to resolve the issue of whether the relief prayed for and granted by the two earlier special hearings should be applicable to the present situation.

Sincerely,  
*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

AJ/srl

November 17, 1983

Brian A. Goldman, Esquire  
Suite 1910, Charles Center South  
36 South Charles Street  
Baltimore, Maryland 21201-3130

RE: Case Nos. 71-238-SPH and 68-118-SPH  
SW/S of Reisterstown Road, 315.5' N  
of Woodholme Avenue - 3rd Election  
District

Dear Mr. Goldman:

Enclosed is a copy of a letter I received from Alan M. Schwartz, Esquire, for your perusal.

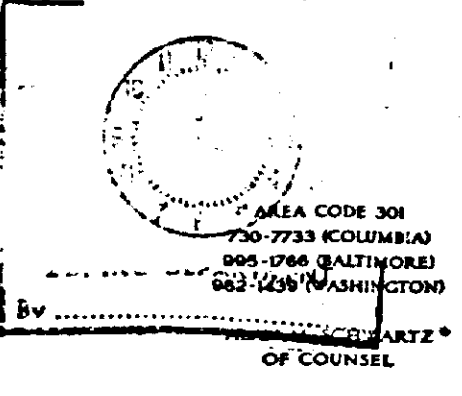
Sincerely,  
*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

AJ/srl

Enclosure

TALKIN AND ABRAMSON  
ATTORNEYS AT LAW  
SUITE 105  
5560 STERRETT PLACE  
COLUMBIA, MARYLAND 21044

RICHARD B. TALKIN  
JOEL MARC ABRAMSON  
STEVEN J. FOX  
ELLEN LEVY WIDEN  
JAMES L. WOTK  
DONALD NEEDLE



November 14, 1983

Mr. Arnold Jablon  
Zoning Commissioner of Baltimore  
County  
Office of Planning and Zoning  
for Baltimore County  
New County Courts Building  
406 Bosley Avenue  
Towson, Maryland 21204

*315.5' N*  
*Woodholme Ave. - 3rd Ed.*  
*WOOD YARD*

Reference: Special Hearing  
Case Nos. 71-238SPH and  
68-118SPH

Dear Mr. Jablon:

I am writing regarding the above-cited special exception permits. I am the attorney for Alfred and Linda Himmelreich, Jr., 408 South Road, Pikesville, Maryland 21208; Richard and Lois Talkin, 404 South Road, Pikesville, Maryland 21208 and Murray Kirschman, 28 Woodholme Avenue, Pikesville, Maryland 21208. All of the above individuals are residents of the area and are immediately affected by the development of the subject parcel.

On November 2, 1983 a County Review Group Meeting was held to consider the proposed site plan submitted by the developer. I appeared at that meeting on behalf of my clients and raised strong objection to the substance of the site plan itself and its lack of compliance with the conditions of the originally issued special exception permits. Of course, with the passage of time, the unused special exception has obviously lapsed.

As you know, the subject parcels were considered for off-street parking in a residential zone in 1968 and 1971. Following a hearing the special exception was issued by



Mr. Arnold Jablon  
November 14, 1983  
Page Two

The Zoning Commissioner. The special exception was issued based upon the then proposed development of the parcel and the effect on the then existing neighborhood. In fact, the decision specifically provided that "... by reason of the following findings of facts, the public health, safety and general welfare of the locality involved not being adversely affected the above Special Hearing for off-street parking in a residential zone in accordance with the plat dated December 16, 1970, and revised April 2, 1971 and approved April 7, 1971 by George E. Gavrelis, Director of the Office of Planning and Zoning for Baltimore County, said plat having been filed as "Exhibit A" in this proceeding, and which is incorporated by reference hereto as a part of this order, should be granted."

Accordingly, the terms and conditions of the original special exception require that the circumstances remain the same. However, over the twelve (12) years since the special exception was approved those circumstances have materially been altered as follows:

(1) Woodholme Avenue was relocated in 1983 so as to provide access off the neighborhood road, bifurcate the property, and add a dangerous curve immediately before the proposed entrance to the parking lot;

(2) The parcels across Woodholme Avenue are now to be developed with much more intensive use than originally proposed thereby increasing the traffic and creating a greater demand for parking.

These changed circumstances effectively serve to invalidate the special exceptions issued in 1968 and 1971. And, in order to protect the integrity of the neighborhood it is necessary that a new special exception hearing be held. To conclude otherwise would seriously impair the rights of the citizens of the neighborhood and would constitute a misapplication of the special exception procedures. The site plan approval sought in this case materially differs from the site plan presented in the special exception cases.

For the above reasons, we hereby request that you order a new special exception hearing for the off-street parking. Further, I would request that you advise the participants in this matter of your decision as soon as possible but certainly

Mr. Arnold Jablon  
November 14, 1983  
Page Three

before twenty-five days elapses from the Community Review Group Meeting of November 2, 1983. That is, unless a new hearing is required we shall file an appeal to the Board of Appeals from the contingent decision of the CRG.

Your consideration of this matter is sincerely appreciated.

If I can answer any questions regarding this matter please do not hesitate to contact me.

Sincerely,

*Alan M. Schwartz*  
Alan M. Schwartz

cc: Mr. & Mrs. Himmelrich  
Mr. & Mrs. Talkin  
Mr. M. Kirshman

BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3353

ARNOLD JABLON  
ZONING COMMISSIONER

November 17, 1983

Alan M. Schwartz, Esquire  
Suite 105, 5560 Sterrett Place  
Columbia, Maryland 21044

Dear Mr. Schwartz:

Enclosed is a copy of a letter I received from Brian A. Goldman, Esquire, for your perusal.

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

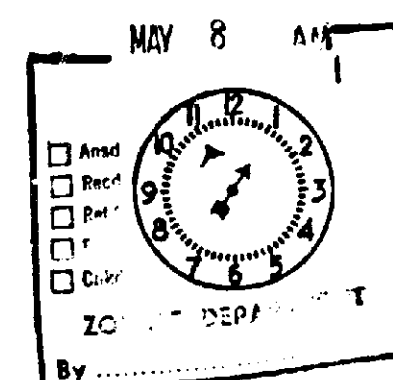
AJ/srl

Enclosure

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER  
PETITION FOR VARIANCES : OF BALTIMORE COUNTY  
Parcel 1 - SW Corner of :  
Reisterstown Rd. & Woodholme :  
Ave. (relocated); and :  
Parcel 2 - W/S of Woodholme :  
Ave. (relocated), 254' SW of :  
Reisterstown Rd., :  
3rd District :  
SKLH GENERAL PARTNERSHIP, : Case No. 84-238-SPHA  
Petitioner : : : : :

NOTICE OF APPEAL

Please note an appeal from your decision in the above-captioned matter, under date of April 17, 1984, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.



*Phyllis Cole Friedman*  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

*Peter Max Zimmerman*  
Peter Max Zimmerman  
Deputy People's Counsel  
Room 223, Court House  
Towson, Maryland 21204  
494-2188

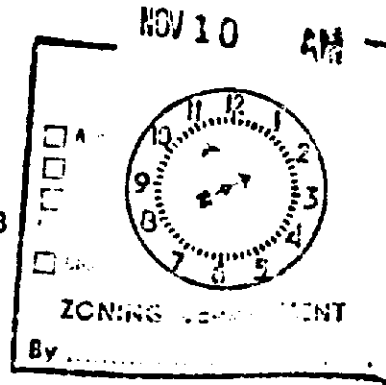
I HEREBY CERTIFY that on this 8th day of May, 1984, a copy of the foregoing Notice of Appeal was mailed to Brian A. Goldman, Esquire, 1910 Charles Center South, 36 South Charles St., Baltimore, MD 21201-3130; R. Bruce Alderman, Esquire, Suite 310, 305 W. Chesapeake Ave., Towson, MD 21204; Alan M. Schwartz, Esquire, Suite 105, 5560 Sterrett Place, Columbia, MD 21044; and Mr. Murray Kirschman, 28 Woodholme Ave., Baltimore, MD 21208.

*Peter Max Zimmerman*  
Peter Max Zimmerman

83-2508

LAW OFFICES  
GOLDMAN & FEDDER, P.A.  
SUITE 800 CHARLES CENTER SOUTH  
36 SOUTH CHARLES STREET  
BALTIMORE, MARYLAND 21201-3130  
(301) 752-1506

November 8, 1983



Arnold E. Jablon, Esquire  
Zoning Commissioner of Baltimore County  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: SKLH General Partnership  
1802 and 1804 Reisterstown Road  
Pikesville, Maryland  
Special Hearing Case Numbers: 68-118-SPH  
71-238-SPH

Dear Mr. Jablon:

This letter is being written in response to comments submitted on behalf of your office by Diana Iltter, Zoning Associate III, at the Community Review Group meeting of November 2, 1983. Specifically, Paragraph 1 states:

It is the opinion of the Zoning Commissioner that a Special Hearing will be required in order to determine whether an amendment to the site plans submitted with 68-118-SPH and 71-238-SPH is required. At the time of the hearing the petitioner must establish why the proposed parking layout is not subject to residential transitional requirements; i.e., why a 75' wide buffer area between the existing house on the David Kaplan property is not required. It is possible to file for a variance to the number of parking spaces required, at the same time so that if the Special Hearing was denied, the variance herein could be heard. Approval is acceptable subject to the outcome of the zoning hearing.

As you are aware, this office represents SKLH General Partnership, the developer of the above referenced properties, and it is our position that the position taken above is incorrect. The Special Hearings permitted the use and configuration of parking on the subject properties. Since the passage of the Order granting the Special Hearings, the properties have been continuously used in the configuration presently contemplated for parking. Upon development of the properties, my client has no intention of modifying, in any way, the parking proposed for the properties.

68-118-SPH was granted on January 24, 1968, with no conditions attached to the allowance of off-street parking in a residential area. The metes and bounds description of the property which was zoned DR. 71-238-SPH was granted on April 14, 1971. Again, the metes and bounds description which was the subject of the Special Hearing described only the DR zoned portion of the parcel.

Arnold E. Jablon, Esquire  
November 8, 1983  
Page Two

The parking lots in question constitute a permitted use existing as a result of the Special Hearings in 1968 and 1971. The configuration of the parking on both parcels is precisely the same as that described in the plans approved in 1968 and 1971. Change of ownership does not destroy a permitted use. *Kastendike vs. Baltimore Association for Retarded Children*, 267 Md. at 389 (1974). Cf. *Skipjack Cove v. Board of Zoning Commissioners*, 284 Md. 381, 387 A.2d 49 (1972). The nature and character of the use, e.g., parking in a residential zone, will be unchanged by the developer. It could be argued that the proposed development of the office building will cause increased usage of the existing parking spaces. This, however, is no basis for requiring a Special Hearing as the original Special Hearings granted in 1968 and 1971 were unconditional. It was within the power of the Commissioner at that time, to condition the special use upon the utilization of the existing structures, but this was not done.

The special use granted runs with the land, and the subsequent purchaser is entitled to all the rights and benefits of the Special Hearings. *Yokley, Zoning Law & Practice* (4th Ed.) § 814-3. The failure to condition the granting of the special use upon the continued occupancy of the existing frame structures entitles the holder of the land to use it to the fullest extent of the granted exception. *County of Imperial v. Donald C. McDougal*, 138 Cal. Rptr. 472, 568 P.2d 14 (1979). In *McDougal*, the California Supreme Court struck down a lower court decision which would have placed restrictions upon the use of land subject to an earlier zoning decision granting an unconditional special exception. The original exception was granted to permit the operation of a commercial well in a residential zone. When the property was purchased and the operation expanded, the zoning board took the position that the operation continued to be within the exception. The Supreme Court of California upheld the zoning board and reversed the lower court, holding that the exception could have been granted conditioned upon a specific volume or traffic limitations. The court held that the failure to place conditions upon the use precluded the zoning board from placing such limitations upon the successor to the original owner.

The metes and bounds description for which notice of the Special Hearings were given describes only the portion of property in the residential zone. If the Special Hearings had been dependent upon the then existing structures on the BL zoned portion of the properties, the Commissioner would obviously have required the inclusion of the full metes and bounds description in the public notices required by law. Moreover, the plans approved by the Board of Planning & Zoning, at least with respect to 1802 Reisterstown Road, clearly indicate that the two story frame building thereon was to be removed. Thus, the contention that the Special Hearing was tied to the existing structures is unfounded.

Arnold E. Jablon, Esquire  
November 8, 1983  
Page Three

In conclusion, the requirement of a Special Hearing to permit the use of the property to continue in accordance with the orders set forth in 68-118-SPH and 71-238-SPH should be abandoned. The developer had a right to rely upon the metes and bounds descriptions, plats and upon the prior actions of Zoning Commissioner. To hold a Special Hearing to reconsider issues already decided can only lead to unnecessary expense and litigation.

I currently have a meeting scheduled with you on November 17, 1983 at which time we can discuss this matter further. If you would like me to provide you with any further information, prior to our meeting, please advise the undersigned.

Thank you for your consideration.

Sincerely yours,

*Brian A. Goldman*  
Brian A. Goldman

BAG/bq

cc: Alan N. Kanter, Esquire  
Howard M. Saperstein, CPA  
David H. Thaler, P.E.

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District 3rd Date of Posting 5-17-84  
Posted for: Appeal  
Petitioner: SKLH General Partnership  
Location of property: Parcel 1 - SW Corner of Reisterstown Rd. and Woodholme Avenue; Parcel 2 - W/S of Woodholme Ave. (relocated); 254' SW of Reisterstown Rd.  
Location of Signs: Large sign on Reisterstown Road and Woodholme Avenue (relocated); 254' SW of Reisterstown Rd.  
Remarks: Case No. 84-238-SPHA  
Posted by: Peter Max Zimmerman Date of return: 5-25-84  
Number of Signs: 2